

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR AN) CASE NO. IPC-E-01-34
ORDER APPROVING THE COSTS TO BE)
INCLUDED IN THE 2002/2003 PCA YEAR)
FOR THE IRRIGATION LOAD REDUCTION)
PROGRAM AND ASTARIS LOAD)
REDUCTION AGREEMENT.) ORDER NO. 29103
)

reconsideration of the Commission's decision to grant it recovery of a quantified amount of its direct costs. The Company did not request a hearing to submit additional evidence and asked the Commission merely to reconsider its decision based upon the existing record. No party filed a response to the Company's Petition. On May 30, 2002, the Commission granted reconsideration so that it could "thoroughly review the record . . . and render our decision." Order No. 29040 at 2.

As a preliminary matter we acknowledge that the Load Reduction Program, Case No. IPC-E-01-3, and the present case, Case No. IPC-01-34, are inextricably linked. Idaho Power recognized this fact by citing the record from Case No. IPC-E-01-3 in its Application and Petition for Reconsideration in this case. We have reviewed and relied upon the records from both cases to resolve the issues raised in Idaho Power's Petition for Reconsideration. Having reviewed this matter fully, the Commission denies Idaho Power's Petition for Reconsideration.

BACKGROUND

A. Historical Context

Prior to implementing the Program and during its operation, Idaho was experiencing its second worst drought conditions in about 75 years. *See generally, Order Authorizing Temporary Increase in Generation in Light of Electricity Exigencies in Western United States*, Project No. 18-063 at 8, 95 FERC ¶ 61,181 (May 8, 2001). *See also* Order No. 28722. In a normal water year Idaho Power generates about 60% of its power system requirement from its hydropower facilities. Because of the drought conditions, Idaho Power was forced to purchase more power than usual from the regional wholesale market. In December 2000, the Commission ordered Idaho Power and other Idaho utilities to cease off-system sales of hydropower and conserve critical water supplies. Order No. 28605 at 3; Order No. 28665 at 4. At the same time as Idaho and the West were experiencing severe drought, western power prices were extremely volatile and at unprecedented highs due in large part to chronic supply shortages in California and poor hydro conditions throughout the West. Monthly average wholesale prices were ten times higher than normal prices. Order No. 28722 at 21. To address these difficulties the Company initiated several load reduction programs in early 2001 to reduce its power needs and to mitigate against possible rate increases. As the Commission recognized in the 2001/2002 PCA Order issued May 1, 2001, "[i]n granting the rate increase authorized by this Order, the Commission recognizes that consumers need avenues to reduce their consumption. Conservation

and DSM programs are powerful tools Idahoans can use to mitigate the impact of this rate increase as well as ones that may occur in the future.” Order No. 28722 at 21. Simply put, Idaho Power and the Commission were actively seeking ways to reduce customer consumption and mitigate against possible customer rate increases. It was under these circumstances that the Commission approved Idaho Power’s Irrigation Load Reduction Program.

B. Case No. IPC-E-01-3

The extreme drought conditions in 2001 drastically reduced Idaho Power’s hydrogeneration of energy. Consequently, the Company was faced with the reality of needing to purchase large amounts of power on the regional wholesale power market to supply its customers with electricity. At the same time the prices for power in the regional market were at an all time high. Consequently, implementation of Idaho Power’s Program was meant to significantly reduce electrical consumption and the need to purchase high priced power from the market.

Reducing off-system purchases was critical not only to the Company but to all ratepayers as the cost of power in the market was at unprecedented high levels and could result in severe increases in customer utility rates. These purchase power costs were also much higher than paying irrigation customers to reduce their consumption of energy. Case No. IPC-E-01-3, Order No. 28699 at 11-12. Thus, the Program was meant to cost effectively reduce the amount and total expense of Idaho Power’s off-system purchases of power during 2001 it would have to make to serve its system load.

In approving the implementation of this Program the Commission found:

Idaho Power’s Irrigation Buy-Back Program will serve the public interest by providing the opportunity for the Company’s customers to receive positive benefits if it is successful. Allowing Idaho Power to pay irrigators for energy reductions rather than purchasing power on the wholesale market will have a positive impact on Idaho’s economy in general by retaining those dollars in the state of Idaho.

Order No. 28699 at 11; *see also* Order No. 28676 at 2. The Commission also found that:

[T]he direct costs and lost revenue impacts of this Program may be treated as a purchased power expense in the Company’s Power Cost Adjustment (“PCA”) mechanism. Idaho Power and the parties shall develop and present a proposal to the Commission recommending a procedure to calculate the amount of revenue impact that should be passed through the Company’s PCA mechanism. Idaho Power shall record the purchase cost paid to irrigators and any calculated lost revenue in separate purchased power subaccounts. The

separate subaccount detail with all supporting documentation should be such that the costs for the Buy-Back Program and any lost revenue amounts will be easily identified for audit. The PCA filing should also include a separate line to identify these costs.

Order No. 28699 at 12 (emphasis added); *see also* Order No. 28676 at 2-3.

C. Case No. IPC-E-01-34

In October 2001, Idaho Power requested that the Commission authorize the Company to include the costs of the Irrigation Load Reduction Program in the 2002/2003 Power Cost Adjustment (“PCA”) case. The Company sought to recover \$73,941,839.42 in direct costs from the Irrigation Program through its PCA mechanism. *See* Order No. 29026, Case No. IPC-E-02-3 (authorizing recovery of this amount through the PCA). Idaho Power also sought Commission authorization to recover lost revenue. The total amount of lost revenue the Company sought was \$11,589,179 without interest.² Case No. IPC-E-02-2 and -3, Tr. at 424; Staff Exh. 4, p. 2, line 14.

On April 15, 2002, the Commission issued Order No. 28992 granting in part and denying in part Idaho Power’s Application. The Commission granted Idaho Power’s request to recover the direct costs resulting from this Program. Order No. 28992 at 6-7. However, the Commission rejected the Company’s request for recovery of lost revenue. Order No. 28992 at 7-8. In its findings the Commission stated:

In Order No. 28699 we stated, “direct costs and lost revenue impacts of this Program may be treated as a purchased power expense in the Company’s Power Cost Adjustment (“PCA”) mechanism.” Order No. 28699 at p. 12 (emphasis added). This Commission finding did not guarantee that Idaho Power was entitled to recovery of alleged reduced/lost revenues that resulted from this Program. Rather, the Commission merely recognized that the issue of recovery of these amounts would be considered. Thus, any amount of reduced revenue for which the Company would later seek recovery had to be properly accounted for and subsequently reviewed by the Commission. This issue has been thoroughly addressed and argued by Idaho Power and supported by the Commission Staff. However, the Commission remains unconvinced that Idaho Power should recover reduced revenues in this case. At the time this Program was approved, volatility in the regional power market and below normal streamflows had pushed the market price of power to unprecedented levels. This Program was intended to allow Idaho Power to cost-effectively reduce its total purchase power expense during 2001, thereby

² Including interest the total amount sought to be recovered by the Company is \$12,015,461.25.

benefiting all of its customers. The Commission finds that in the context of the market situation that existed at the time this Program was approved, it was the prudent if not required action for the Company to take and that further incentives, such as the recovery of reduced revenues, to develop and utilize a program of this type were not needed Finally, in general, the Commission rejects the “no losers test.” The societal viewpoint dictates that Idaho is best served by not permitting the “no losers” price to be a ceiling on load reduction programs or conservation measures costs.

Order No. 28992 at 7-8. (emphasis added).

THE PETITION FOR RECONSIDERATION

Idaho Power presents several arguments why the Commission should reconsider its decision in final Order No. 28992. The Company generally asserts that denying the recovery of lost revenue is unreasonable, unlawful, erroneous, unduly discriminatory, and not in conformity with the facts of record or applicable law. In addition, the Company maintains that the Order results in confiscation, and ultimately rates that are confiscatory. These arguments are discussed in greater detail below.

First, Idaho Power alleges the Commission’s denial of the recovery of lost revenue results in confiscation and ultimately rates that are confiscatory. Petition at 2-3. Second, Idaho Power argues that the Commission’s denial of the recovery of lost revenue in Order No. 28992 is not in conformity with the facts in the record of Case No. IPC-E-01-3 or the Orders issued in that case. Specifically, the Company alleges that Order No. 28699 authorized it to recover lost revenue. *Id.* at 3-4. Third, the Company contends that denial of the recovery of lost revenue in Order No. 28992 is an unlawful collateral attack on Order No. 28699 in Case No. IPC-E-01-3, which the Company contends authorized their recovery. *Id.* at 4. Finally, Idaho Power alleges that Order No. 28992 or any other Order that requires the implementation of conservation or demand-side management (“DSM”)³ programs that does not allow the Company to recover all its costs, including lost revenue, is unreasonable, unlawful and confiscatory. *Id.* at 5.

Idaho Power did not offer to provide additional evidence and contends that the evidentiary record in Case No. IPC-E-01-3 and in this proceeding, Case No. IPC-E-01-34, is sufficient for the Commission to make a determination on its Petition. Based on the foregoing,

³ Demand-side management programs are used to encourage consumers to modify patterns of electricity usage, including the timing and level of electricity demand.

Idaho Power requests that the Commission reconsider Order No. 28992 and upon reconsideration, issue an Order that would authorize the Company to recover the total amount of lost revenue (\$12.015 million). Idaho Power also requests that the Commission modify Order No. 28992 to provide that in determining the cost effectiveness of any conservation or DSM program, the Company is entitled to recover all costs that it would incur as a result of the implementation of any particular program.

COMMISSION FINDINGS AND DISCUSSION

A. Standard for Reconsideration

Reconsideration provides an opportunity for an aggrieved person to bring to the Commission's attention any issue previously determined and provides the Commission with an opportunity to rectify any mistake or omission. *Idaho Code* § 61-626; *Washington Water Power v. Kootenai Environmental Alliance*, 99 Idaho 875, 591 P.2d 122 (1979). In those instances where an aggrieved person asks the Commission to reconsider its decision based upon the record, it may simply do so. The Commission's Procedural Rule 331.01 requires that petitions for reconsideration must include "a statement of the nature and quantity of evidence or argument that the petitioner will offer if reconsideration is granted." IDAPA 31.01.01.331.01. Commission Rule 331.03 provides that petitions for reconsideration must state whether the petitioner requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories. IDAPA 31.01.01.331.03. Idaho Power stated in its Petition that the record(s) in this matter is sufficient to make a determination on this matter without the need for further proceedings.

On May 30, 2002, the Commission issued Order No. 29040 and determined the record in this proceeding was sufficient by itself for us to render a decision on the Company's Petition for Reconsideration. Order No. 29040 at 2. Accordingly, we granted Idaho Power's Petition for the limited purpose of examining the record to determine whether Order No. 28992 should be amended to allow the Company to recover lost revenue that may have resulted from operation of the Irrigation Load Reduction Program in 2001. *Id.*

B. The Record in Case No. IPC-E-01-3 and "May" vs. "Shall"

Idaho Power's Petition for Reconsideration rests largely on its mistaken belief that the Commission specifically approved the recovery of lost revenue in Order No. 28699 (Case No. IPC-E-01-3) issued May 25, 2001. No such approval was given in that Order or any other Order

involving this issue. In that case we explicitly stated that the Company may treat these amounts as a purchased power expense for the purposes of booking the amounts properly. Actual recovery of the booked lost revenue was to be decided in the subsequent case, Case No. IPC-E-01-34. Our use of the word “may” was not intended to authorize the recovery of the yet to be determined lost revenue. *See Rife v. Long*, 127 Idaho 841, 848, 908 P.2d 143, 150 (1995) (the meaning of the word “may,” when appearing in legislation means or expresses the right to exercise discretion. When used in a statute, the word “may” is permissive rather than the imperative or mandatory meaning of “must” or “shall.”)

In Order No. 28699 we recognized that recovery of lost revenue was an issue that would be preserved for review in the annual 2002/2003 PCA case. Accordingly, Order No. 28699 required that the parties develop a mechanism to calculate the amount of lost revenue and that the Company properly account for the amount so that it could be easily identified for audit. The Order contemplated that in March 2002, during review of the Company’s next PCA filing, we would determine whether any lost revenue should be recovered and if so what amount was prudent and reasonable. Accordingly, our Orders in Case No. IPC-E-01-3 did not grant Idaho Power the authorization to recover lost revenue from implementing this Program. Rather, the Commission determined that the issue would be preserved for later review. On further review, in Order No. 28992 issued April 15, 2002, we found that the recovery of lost revenue was inappropriate. Based on the foregoing, the Commission finds that this argument is without merit and is not a basis for amending Order No. 28992.

C. Collateral Attack

Idaho Power next alleges that Order No. 28992 is an unlawful collateral attack on our prior Order No. 28699 in Case No. IPC-E-01-3, that it contends authorized the recovery of lost revenue. Idaho Power contends that the plain meaning of the word “may” in the context of Order No. 28699 is that the Company was permitted to recover lost revenue. Thus, the Company argues that Order No. 28992 denying their recovery is in direct contradiction to Order No. 28699 and amounts to a collateral attack in violation of *Idaho Code* § 61-625. The Company’s argument is misplaced. *Idaho Code* § 61-625 provides, “[a]ll orders and decisions of the commission which have become final and conclusive shall not be attacked collaterally.”

We find that Order No. 28992 is not an unlawful collateral attack on Order No. 28699 for three reasons. First, as stated previously, we did not authorize the recovery of lost revenue in

Order No. 28699; we established an accounting mechanism to track and preserve the issue for later review. This was the “plain meaning” of our usage of the word “may” in Order No. 28699. *Rife*, 127 Idaho at 848, 908 P.2d at 150. Second, Order No. 28699 did not “finally and conclusively” determine an exact amount, if any, that Idaho Power could recover. Neither did it specify the rates to produce the amount to be recovered. Indeed, the irrigation season had just begun. Order No. 28699 only authorized the Program to be implemented and established a tracking or booking mechanism. Thus, it was also not “final and conclusive” as to any amount that Idaho Power might be allowed to recover. See *Rosebud Enterprises v. Idaho P.U.C.*, 131 Idaho 1, 5, 951 P.2d 521, 525 (1997). Accordingly, the Commission’s denial of the recovery of lost revenue does not in any way contradict Order No. 28699 and does not constitute a collateral attack on that Order.

Idaho Power has also misconstrued and misapplied *Idaho Code* § 61-625. This statute bars persons from collaterally attacking final Commission Orders. Even had we approved the recovery of lost revenue in Order No. 28699, *which we did not*, the Commission retains the authority to rescind, alter or amend a prior Order or decision made by it. *Idaho Code* § 61-624.

D. Lost Revenue Is Not a Recoverable Cost in this Case

The Company argues that the Commission without evidentiary or legal support denied recovery of lost revenue. Furthermore, Idaho Power contends that by not allowing the recovery of lost revenue results in confiscation and ultimately rates that are confiscatory.

1. Exercise of Lawful Authority

Our decision to deny the recovery of lost revenue implicates the Commission’s ratemaking functions as delegated by the Idaho Legislature. The Commission’s decision on this matter undeniably has had an effect on the rates that customers pay for electric service from Idaho Power.

The function of ratemaking is legislative and not judicial. *Industrial Customers of Idaho Power v. Idaho Public Utilities Commission*, 134 Idaho 285, 289, 1 P.3d 786, 790 (2000). The Commission, as an agency of the legislative department of government, exercises delegated legislative power to make rates. *Id.* So long as it regularly pursues its authority and remains within constitutional limitations, the courts have no jurisdiction to interfere with its determinations. *Id.* Thus, the Commission’s rate setting Order carries with it the presumption of validity. See *Application of Utah of Power & Light Co.*, 107 Idaho 446, 448-49, 690 P.2d 901,

903-04 (1984). The Commission is vested with the power to supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the Public Utilities Law. *See Idaho Code* § 61-501.

Before the Commission can increase rates, it must first make a finding that such increase is justified. *Idaho Code* § 61-622. Section 61-622 provides in relevant part:

The commission shall have power, and is hereby given authority, either upon complaint or upon its own initiative ... to enter upon a hearing concerning the propriety of such rate, fare, . . . rule or regulation. . . . On such hearing, the commission shall establish the rates, fares, . . . rules or regulations proposed, . . . which it shall find to be just and reasonable.

Idaho Code § 61-622.

Idaho Power requested that the Commission allow it to recover and pass on to ratepayers through the PCA mechanism the lost revenue it claims it would have earned but for the implementation of the Program. Based on the Commission's ratemaking authority we are empowered to determine whether the Company should recover the lost revenue that allegedly resulted from this Program. Nothing in the record indicates that the Commission departed from regularly pursuing its statutory authority when it decided to deny the recovery of lost revenue. Accordingly, we find that Idaho Power's argument that we were without a legal basis to deny the recovery of lost revenue is without merit.

2. It Is Not Appropriate for the Company to Recover Lost Revenue

The Commission finds that lost revenue is not a recoverable "expense" to be recovered from ratepayers like the direct costs from this Program (i.e., the payments to irrigators). In general, the Commission finds that rates should accurately reflect the actual costs incurred to provide service. Given the unique context that caused this Program to be implemented, we find that lost revenue does not constitute an actual cost of providing service that should be borne by ratepayers. To allow Idaho Power to recover lost revenue would at least partially destroy the goal of reducing overall energy costs to all ratepayers at a time when energy costs were at all time highs. To charge ratepayers for lost revenue is unreasonable in the context of the crisis that existed because of the drought and the unprecedented prices in the regional power market at that time. Requiring ratepayers to pay for energy they did not consume, but avoided due to this Program, is also unreasonable. The Commission did, however, allow the

Company to recover its actual costs (including interest) for purchasing load reductions from its irrigation customers (\$74 million).

Our finding is also consistent with our prior conservation and DSM Orders that deny the recovery of lost revenue. *See* Order Nos. 25062, 25122 & 25640. The Commission also finds that in the context of the electric power market crisis that existed at the time, it was the prudent if not required action for the Company to develop programs to conserve and reduce consumption of expensive power. In fact, the Commission has always believed that cost-effective DSM resources are generally least-cost resources and they are of significant value to the Company, its shareholders, its customers and to the general community. To not acquire such resources merely because the Company may lose some sales of power might constitute imprudence. Accordingly, we expect Idaho Power and all utilities in this State to operate efficiently in the long-term best interests of their shareholders and customers.

3. Confiscation

Idaho Power argues that Order No. 28992 results in confiscation and ultimately rates that are confiscatory. However, the Company does not articulate how our Order is confiscatory.⁴

We affirm our decision that it is not appropriate for Idaho Power to recover revenue for energy it did not sell to its customers in this Program. In general, though, the question is whether our denial of the recovery of lost revenue causes rates currently in place to be confiscatory. On this question the complainant has the burden of proof. *Petition of the Mountain States Telephone and Telegraph Company*, 76 Idaho 474, 480, 284 P.2d 681, 683-84 (1955) citing *Los Angeles Gas & Electric Corp. v. Rail Commission*, 289 U.S. 287, 53 S.Ct. 637, 643, 77 L.Ed. 1180 (1933). In *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 109 S.Ct. 609, 102 L.Ed.2d 646 (1989) the Supreme Court restated the constitutional parameters of ratesetting for public utilities under the Takings Clause of the Fifth Amendment of the United States Constitution:

The guiding principle has been that the Constitution protects utilities from being limited to a charge for their property serving the public, which is so “unjust” as to be confiscatory. If the rate does not afford sufficient compensation, the State has taken the use of utility property without paying just compensation and so violated the Fifth and Fourteenth Amendments.

⁴ Indeed the Company did not offer evidence that the Commission’s decision on the single issue of lost revenue resulted in the Company’s failure to earn its authorized rate of return.

288 U.S. at 307-08, 109 S.Ct. at 615-16, 102 L.Ed.2d at 657. *See also Hayden Pines Water Company v. Idaho Public Utilities Commission*, 122 Idaho 356, 358, 834 P.2d 873 (1992).

If the Company's confiscation argument rests solely on the mistaken belief that we previously approved the recovery of lost revenue it must fail. As stated previously, we did not through any Order approve the recovery of these alleged costs. Furthermore, we must reiterate that it would be unreasonable to allow the Company to recover these amounts in the context of the drought and crisis in the regional power market that existed at that time. We must also find that the Company has failed to specifically allege on what grounds Order No. 28992 violates either the Takings Clause of the Idaho or United States Constitutions. Accordingly, we find the Company's confiscation argument without merit.

D. Demand-Side Management Programs and Recovery of all Costs

Finally, Idaho Power requests that the Commission modify Order No. 28992 to provide that in determining the cost effectiveness of any future DSM program, the Company is entitled to recover all costs that it would incur, including lost revenue.

We find that the Company's request is beyond the scope of this case and has been raised for the first time by the Company's Petition for Reconsideration. The Company's Application did not request this authorization as shown in the concluding paragraph:

WHEREFORE, Idaho Power Company respectfully requests (1) that the Commission issue its order approving the methodology for the calculation of the reduced revenue as a result of the Irrigation Load Reduction Program, and (2) for an order approving the costs to be included in the 2002/2003 PCA year for the Irrigation Load Reduction Program The Company further requests authority to supplement its filing in this proceeding as additional costs are incurred in the year 2002 for the Irrigation Load Reduction Program[.]

Application at 5-6. Thus, in both cases, Case No. IPC-E-01-34 and Case No. IPC-E-01-3, we were only examining the Irrigation Program and its costs. We were not requested to nor did we consider the broader question that Idaho Power now raises in its Petition—the treatment of costs (including lost revenue) from the operation of future DSM and conservation programs.⁵ Our decision was limited to the facts and circumstances of this case. Thus, our decision to deny the Company's request to recover lost revenue does not predetermine that recovery of lost revenue is

⁵ However, in Case No. IPC-E-01-34 we did authorize Idaho Power to recover the direct costs associated with the Astaris Load Reduction Program. *See* Order No. 28992 at 8-9.

never appropriate in future DSM and conservation programs. Furthermore, because this argument was not raised in the Company's Application interested persons and parties were not properly given notice that this would be an issue in this case.⁶ Thus, we find that to consider this argument without providing notice to all possible interested persons and parties might constitute a violation of due process. Based on these reasons, we find that Idaho Power's argument is without merit.

In the alternative, we find Idaho Power's position on this issue fundamentally inconsistent with the regulatory scheme under which it operates. The Company essentially requests that we prejudge the reasonableness and prudence of the costs that it alleges will be incurred through any future DSM or conservation program.⁷ Granting such approval would eliminate our review of costs and give the Company a "blank check" to recover them, whether prudently incurred or not. The Commission will not tie its hands by granting such a request. To do so would ignore our duties as delegated to us by the Idaho Legislature. We must evaluate each case and DSM program with its associated benefits and costs on its own merits. This can only be done at the time a particular program is brought to the Commission for its review.

Based on the foregoing, the Commission denies Idaho Power's request to amend our Order No. 28992. Our finding is consistent with the Commission's position on this matter in the past. *See* Order No. 22299.

CONCLUSION

Based on the foregoing, we find that our decision in Order No. 28992 to deny Idaho Power the authorization to recover lost revenue from operation of the Irrigation Load Reduction Program during 2001 was not unreasonable, unlawful, erroneous or unduly discriminatory. We also find that Order No. 28992 conforms with the facts of record and/or applicable law. Furthermore, the Commission does not find that the denial of the recovery of lost revenue results in confiscatory rates. The Commission also finds that Order No. 28992 is not an unlawful collateral attack on Order No. 28699. Finally, we decline to modify our Order to provide that

⁶ As this case was processed by Modified Procedure the Commission must provide notice of the issues presented in the proceeding and a summary of the moving party's justification for the proposed changes and its position. IDAPA 31.01.01.202. Notice of Idaho Power's new argument was not issued to all interested persons and parties through Order No. 28893.

⁷ Idaho Power's argument assumes that we consider lost revenue to be a cost. As we stated previously, at least for purposes of this case we do not consider lost revenue to be an actual cost in this case.

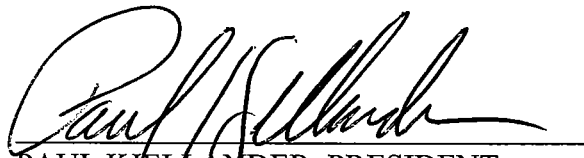
Idaho Power is entitled to recover all "costs" that it would incur as a result of the implementation of any demand-side management program.

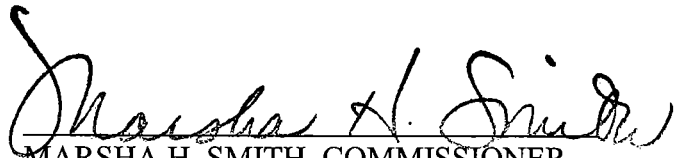
ORDER

IT IS HEREBY ORDERED that Idaho Power Company's Petition for Reconsideration is denied.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. IPC-E-01-34 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. *See Idaho Code* § 61-627.

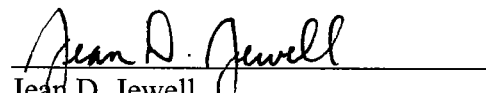
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29th day of August 2002.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

O:IPCE0134_jh4